IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

Criminal Application No.367 of 2007

IN

Criminal Appeal No.343 of 2004

Vahidali Abdulgani Chuhe .. .. Applicant

v/s.

The State of Maharashtra
(at the instance of R.A.K. Police Station). .. Respondent

Smt.Anjali Patil for applicant.

Ms.M.M. Deshmukh for respondent- State.

CORAM : SMT.RANJANA DESAI &

SMT.ROSHAN DALVI, JJ.

Dated : 30th July, 2007

P.C. :

1. The applicant is convicted by the Sessions Court of Greater Mumbai in Sessions Case No.945 of 2001 for offences punishable under Section 498- A and Section 302 of Indian Penal Code and sentenced to suffer imprisonment for life. His appeal is admitted. The applicant has filed the present bail application.

2. The case of the prosecution is that the applicant has murdered his wife-Safiya in their residential premises between the night of 16.6.2001 and 17.6.2001. We have heard the learned Counsel for the applicant at some length. She submitted that the case of the prosecution is entirely based on circumstantial evidence. She further submitted that the circumstantial evidence is not cogent and credible. The chain of circumstances does not unerringly point to the guilt of the applicant-accused and vital links in the chain are snapped. She submitted that, therefore, the applicant be released on bail.

3. It is not possible for us to accept the submissions of the learned Counsel for the applicant-accused. The relatives of the accused have consistently deposed that the applicant used to quarrel and assault the deceased. P.W.6-Abdul Gani Abdul Ali Chuhe is the father of the applicant. He had seen the applicant and deceased Safiya in their house at mid-night on 16.6.2001. P.W.5-Sudha Pandurang Sawant and P.W.9-Shabirabi Abdul Kalld Chuhe saw the applicant

leaving his room and going towards road at 1.30 / 2 a.m. on 17.6.2001. The applicant has not established his plea of alibi and he has not given explanation regarding his whereabouts at the time of the incident. He was arrested on 18.6.2001. Chopper, Article 13, has been recovered at the instance of the applicant and human blood was found on the shirt and pant of the applicant as well as on the chopper. There is no evidence to establish that any one else had gone to their house at the odd hours of night to attack the applicant's wife. This fact strengthens the prosecution's case. The applicant has not offered any explanation as to how his wife succumbed to death in their matrimonial house in suspicious circumstances when he could be the only person around. This is an additional circumstance against the applicant. Prima facie, in our opinion, the prosecution has been able to establish its case against the applicant. Hence, the applicant cannot be released on bail. In the circumstances, the bail application is rejected. Hearing of the Appeal is expedited.

(SMT.RANJANA DESAI, J.)

(SMT.ROSHAN DALVI, J.)